

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
11/646,643	08/22/2003	George William Dailey	2003P07970US

Response To Official Action

EXAMINER	
Ayres, Timothy Michael	
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REMARKS

The above-referenced application has been reviewed in light of the Office Action mailed October 27, 2005. By the present amendment, the Applicant has canceled claims 3-7 without prejudice. It is respectfully submitted that the claims remaining in the application are fully supported by the specification, introduce no new subject matter, and are patentable over the prior art. Prompt and favorable consideration of the claims as amended is respectfully requested.

In the Office Action, the drawings were objected to under 37 C.F.R. § 1.83 (a). According to the Office Action, features recited in claims 1, 4, and 5 were not shown in the drawings. In the interest of furthering prosecution, claims 4 and 5 have been canceled and claim 1 has been amended to overcome the Examiner's objection. Therefore, it is respectfully submitted that the features recited in claim 1 are fully supported by the drawings. It is respectfully requested that the rejection of the Office Action be withdrawn.

Also, in the Office Action, claims 4 and 5 were rejected under 35 U.S.C. § 112 wherein it was asserted that the claimed subject matter was not adequately described in the specification. As noted above claims 4 and 5 have been canceled. Therefore, it is respectfully requested that the rejection be withdrawn.

In the Office Action, claims 1-4 and 8 were rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent No. 3,288,090 to King (the '090 patent). According to the Office Action, the '090 patent discloses an apparatus including a planar member that can inherently support a patient, a support assembly having a pedestal disposed on a base, a plurality of connecting arms connected to the planar member and the pedestal, and a motor assembly for positioning the planar member.

As presently amended, claim 1 recites a device including a base having first and second sections and a plurality of elongated connecting arms wherein "each connecting arm forms an

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acute angle relative to the first section of the base plane" in a first position and the planar member is movable to a second position wherein "each connecting arm forms an obtuse angle relative to the first section of the base plane and each connecting arm travels through an axis that is orthogonal to the base when the planar member moves from the first position to the second position." The '090 patent discloses an apparatus having connecting arms that can, at most, travel to an axis that is orthogonal to the base. The '090 patent does not teach or suggest an apparatus having connecting arms capable of traveling from one side of an orthogonal axis to the other side of the orthogonal axis as recited in claim 1. Therefore, it is respectfully submitted that claim 1, as amended, is not anticipated or suggested by the '090 patent and is in condition for allowance. As noted above, claims 3 and 4 have been canceled. Since claims 2 and 8 depend from claim 1, it is respectfully submitted that these claims are also in condition for allowance.

Furthermore, in the Office Action, claims 5, 6, 9-13, 15-20, and 22-23 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over the '090 patent in view of U.S. Patent No. 4,173,372 to Norris (the '372 patent). According to the Office Action, the '090 patent discloses every element, but does not disclose that the pedestal is configured for independent rotation with respect to the base using a motor assembly. The Office Action stated that the '372 patent discloses a support assembly for a seat that is rotatable about the vertical axis and asserted that claims 9-13, 15-20, 22, and 23 were an obvious method of using the device of the '090 patent as modified by the '372 patent.

As presently amended, claims 9 and 17 recite a method including the step of providing a support device having a planar member, a base having first and second sections, and a plurality of elongated connecting arms wherein "each connecting arm forms an acute angle relative to the first section of the base in the first position and each connecting arm forms an obtuse angle

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relative to the first section of the base in the second position and each connecting arm travels through an axis that is orthogonal to the planar member when the planar member moves from the first position to the second position." As discussed above, the '090 patent does not teach or suggest such a device. Adding the motor assembly, as disclosed in the '372 patent, does not cure the deficiencies of the '090 patent and does not suggest the device recited in amended claims 9 and 17. Therefore, it is respectfully submitted that amended claims 9 and 17 overcome the rejection of the Office Action and are in condition for allowance. Since claims 10-13 and 15-16 depend from claim 9, and claims 18-20 and 22-23 depend from claim 17, it is respectfully submitted that these claims are also in condition for allowance.

Additionally, the Office Action rejected claim 7 under 35 U.S.C. § 103(a) as being unpatentable over the '090 patent in view of U.S. Patent 6,516,478 to Cook (the '478 patent). By the present amendment, the Applicant has canceled claim 7 and it is respectfully requested that the rejection be withdrawn.

Finally, in the Office Action, claims 14 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the '090 patent in view of the '372 patent as applied to claim 24, and further in view of the '478 patent. As discussed above, amended claims 9 and 17 are not suggest by the '090 patent in view of the '372 patent. Since claims 14 and 21 depend from claims 9 and 17, it is respectfully submitted that these claims are in condition for allowance and the rejection of the Office Action has been overcome.

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In view of the foregoing amendments and remarks, Applicant submits that all of the claims are in proper format and are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is invited to contact the undersigned at the telephone number listed below with any questions concerning this application.

Respectfully submitted,

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